

P-3007/NA-89-76 ORDER APPROVING COMPLIANCE FILING AND REQUIRING  
ADDITIONAL FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the  
Minnesota Independent Equal  
Access Corporation's  
Application for a Certificate  
of Public Convenience and  
Necessity

ISSUE DATE: January 21, 1993

DOCKET NO. P-3007/NA-89-76

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FILING AND REQUIRING ADDITIONAL  
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**PROCEDURAL HISTORY**

On February 7, 1989, the Minnesota Independent Equal Access Corporation (MIEAC) filed an application for a certificate of authority to provide centralized equal access (CEA) services to interexchange carriers (IXCs) on behalf of any participating independent local exchange carrier (PILEC) which chose to use its services. The matter was referred to an administrative law judge for contested case hearings.

On January 10, 1991, the Commission issued its ORDER GRANTING CERTIFICATE OF AUTHORITY TO PROVIDE EQUAL ACCESS SERVICE. In that Order, the Commission granted MIEAC's application subject to 17 conditions. MIEAC was required to submit its compliance filing within nine months.

On May 20, 1991, the Commission issued its ORDER AFTER RECONSIDERATION amending and clarifying the January 10, 1991 Order.

On October 1, 1991, MIEAC submitted a request for an additional 30 days to submit the cost support information to its compliance filing. This request was granted by the Commission in an Order dated October 17, 1991.

On October 10, 1991, MIEAC submitted its compliance filing, less the cost support information.

On October 17, 1991, the Commission issued a notice to parties indicating that comments on MIEAC's compliance filing were due no later than 30 days after MIEAC submitted its cost support information to the Commission. Reply comments were due within 50 days of MIEAC submitting its cost support information.

On November 12, 1991, MIEAC submitted the cost support to its compliance filing.

On December 12, 1991, the Department of Public Service (the Department), US West Communications, Inc. (USWC), and AT&T Communications of the Midwest, Inc. (AT&T) filed comments on MIEAC's compliance filing.

On January 2, 1992, MIEAC, the Department, USWC and AT&T filed reply comments regarding the MIEAC compliance filing.

On January 13, 1992, MIEAC submitted updated cost support information.

On March 19, 1992, the Commission granted USWC's request for an extension for filing comments on MIEAC's rates until after MIEAC had provided complete information on its transmission capacity leases.

On May 29, 1992, the Department, USWC and AT&T filed their supplemental comments on MIEAC's compliance filing and proposed final rates.

On June 17 and 18, 1992, MIEAC, the Department, USWC and AT&T filed reply comments in this proceeding.

On July 6, 1992, MIEAC filed a notice of motion and motion to strike portions of the Department, USWC and AT&T's reply comments.

On July 14 and 15, 1992, the Department, USWC and AT&T filed responses to MIEAC's motion. MIEAC subsequently withdrew its Motion to Strike.

On December 22, 1992, the Commission met to consider this matter.

## **FINDINGS AND CONCLUSIONS**

### **I. REVIEW OF THE COMPLIANCE FILING**

MIEAC's compliance filing addressed the seventeen conditions that the Commission placed upon MIEAC's certificate of authority in its January 10, 1991 Order. Parties filed comments regarding MIEAC's compliance with seven of those conditions. Regarding the issues raised in those comments, the parties have agreed on the resolution of all but three of these issues. This Order, therefore, will review MIEAC's compliance filing in three sections: 1) conditions not commented on by the parties; 2) issues whose remedy was not disputed by the parties; and 3) issues in dispute.

#### **A. Conditions Not Commented Upon**

No comments were received regarding MIEAC's reported compliance with the following conditions:

- Condition 3: The setting of final rates was deferred until MIEAC's costs were known. Final rates were to be set in a true-up filing.
- Condition 6: With conversion to CEA, the PILECs may charge premium access charges.
- Condition 7: Where AT&T is the only carrier on an exchange's interLATA ballot or US West the only carrier on the intraLATA ballot, MIEAC may not assess its surcharge for that traffic.
- Condition 8: MIEAC must submit a satisfactory disaster recovery plan with its true-up filing.
- Condition 9: MIEAC must not establish a terminating monopoly by any proposed service or any present or future technology. MIEAC must also include a provision in its contracts with PILECs prohibiting PILECs from establishing a terminating monopoly.
- Condition 10: MIEAC was required to allow Feature Group B (FGB) traffic to use the existing network without the MIEAC CEA charge applied. If an interexchange carrier (IXC) chose to route its FGB traffic over the MIEAC network or picked up its FGB traffic at the MIEAC access tandem, MIEAC may charge for switching and transport. Also, where FGB traffic had to be routed over the MIEAC network due to end office technical limitations, MIEAC could not assess its access charge.
- Condition 11: The Commission will examine any bona fide requests for end office conversion of a PILEC exchange on a case-by-case basis to determine whether it will require the (independent local exchange company) ILEC to comply with the request.
- Condition 15: Minnesota Equal Access Facilities Corporation (MEAFCO), MIEAC's facilities provider, is subject to regulation as a telephone company.
- Condition 16: MIEAC was to file sufficient information to satisfy the Commission that its affiliate, the Minnesota Independent Interexchange Corporation (MIIC), could serve as an IXC and participate in the equal access balloting and allocation process. This information was to be filed within 30 days of learning that there would be no competitor to AT&T for interLATA toll from a PILEC exchange or to USWC for intraLATA toll from a PILEC exchange.

Condition 17: The Commission wished to avoid several problems that occurred in the equal access conversion process in Iowa. MIEAC was directed to take specific actions to avoid these problems and to provide a copy of its timeline and information materials provided to ILECs, IXCs and end users.

The Commission has reviewed MIEAC's compliance filing and finds that MIEAC has demonstrated satisfactory compliance with respect to the above-listed conditions.

#### **B. Conditions Commented Upon/Resolved By the Parties**

The Commission has reviewed the parties' proposals regarding the issues discussed by the parties and finds that these proposals are in the public interest. Those issues are as follows:

##### **1. Section 7 of the Traffic Agreements**

In their comments regarding MIEAC's compliance with Condition 1 (contract length), USWC and the Department proposed that MIEAC be required to add the following language to Sec. 7 of the MIEAC-PILEC traffic agreements:

If the MPUC orders compliance with a bona fide request for end office equal access, the PILEC shall terminate this contract as of the date it begins end office equal access.

MIEAC and AT&T agreed. The Commission finds that the proposed language will avoid a conflict with Sec. 4B but would be clarified by adding the phrase "for intrastate traffic" after "contract." The Commission will require MIEAC to add this language, as clarified, to Section 7 of the traffic agreements within 60 days of this Order.

##### **2. Prohibition Against Provision of Local Service**

In commenting on MIEAC's compliance with Condition 2 (limited authority) USWC proposed that language similar to the following be added to the beginning of MIEAC's tariff:

MIEAC and its affiliates are prohibited by order of the Minnesota Public Utilities Commission from offering or providing any local services, directly or indirectly, to customers in exchanges in the Twin Cities metropolitan area.

The parties, including MIEAC agreed that this language should be included. The Commission finds that this language will help clarify that MIEAC's tariff and its services are limited to centralized equal access (CEA) and miscellaneous related services between MIEAC and PILECs. The Commission will require MIEAC to add this language to Section 1 of the tariff within 60 days after this Order is issued.

### 3. Unbundling the Switching and Transport Rate

In its January 10, 1991 Order in this matter, the Commission adopted an unbundled rate design to reflect the two separate functions performed by MIEAC: CEA and transport. The methodology proposed by MIEAC to accomplish the unbundling was not disputed by the parties. The Department proposed the same methodology. The Commission will approve MIEAC's methodology. It complies with the Commission's directive.

### 4. Potential for Bypass Without Commission Approval

USWC noted that MIEAC has constructed an oversized, fully equipped network which has the capability of bypassing the existing jointly provided local transport network. The Department also expressed concern over the development of the transport facility network of LECs throughout the state. The Department indicated that bypass of existing facilities, duplication of facilities, infringement of service territories, and unauthorized provision of facilities and services may be occurring without the Commission being informed or Commission approval being granted. The Department recommended that the Commission initiate an investigation into the establishment of transport facilities statewide.

MIEAC responded that the focus of this proceeding was to establish MIEAC's final rates, which is far removed from a consideration of potential bypass. At the December 22, 1992 hearing on this matter, however, MIEAC concurred with the Department's recommendation that the Commission initiate a separate investigation of this matter.

The Commission finds that the concern expressed by USWC and the Department that bypass could be occurring without Commission knowledge is related to the present evaluation of MIEAC's compliance filing. The question raised is whether the Commission's concerns about bypass, raised in the January 10, 1991 Order, are being honored or circumvented. However, because parties with significant involvement in any such bypass (the independent local exchange companies) are not parties to this proceeding and because the scope of the bypass issue is much broader than this proceeding, the Commission believes that an investigation would be more appropriate and effective than this compliance filing. In a separate Order and docket, the Commission, therefore, will initiate an investigation into the establishment of transport facilities statewide, determine the level of bypass that is occurring or may occur through use of those facilities, and develop an appropriate regulatory response to these circumstances. See In the Matter of a Commission-Initiated Investigation into Bypass of Existing Local Transport Facilities, Docket No. P-999/CI-93-12, ORDER INITIATING INVESTIGATION (January \_\_, 1993).

## 5. Cost Allocations and Affiliate Transactions

MIEAC used the cost allocation manual of its parent company, the Minnesota Equal Access Network Systems (MEANS). The document containing the cost allocation methods adopted by MIEAC is entitled MEANS' Cost Allocation Manual. Because this Order focuses on the responsibilities of MIEAC and MIEAC has adopted MEANS' Cost Allocation Manual, the following discussion will refer to this document as MIEAC's cost allocation manual and the methods contained therein as MIEAC's cost allocation methods.

### a. Account 6723: Human Resources Expense

AT&T objected to MIEAC using the general allocator to allocate human resource expenses (Account 6723) between its regulated versus non-regulated activities. AT&T argued that these expenses should be assigned based on the ratio of total salaries and wages associated with the regulated versus non-regulated activities. MIEAC agreed to modify its cost allocation manual to conform with AT&T's comments.

The change agreed to by MIEAC is appropriate. The Federal Communications Commission (FCC) indicates that the general allocator should only be used when neither a direct or indirect measure of cost allocation can be found. The general allocator should not be used if a cost causative measure can be identified. In this case, the Commission will direct MIEAC to modify its cost allocation manual to use salaries and wage expense to allocate human resource expense.

### b. Account 6725: Legal Expense - Other

AT&T also objected to MIEAC's use of the general allocator in allocating "other" legal expenses between regulated and non-regulated activities. AT&T noted that there is a connection between the categories of direct and other legal expense, so use of the general allocator is inappropriate. In comments dated June 18, 1992, MIEAC disagreed with AT&T's analysis, but chose not to oppose AT&T's suggestion that MIEAC modify its cost allocation manual to allocate expenses in Account 6725 based on direct expenses.

The Commission accepts AT&T's analysis and proposal. The Commission will require MIEAC to modify its cost allocation manual to provide for allocation of costs in this account based on direct legal expenses.

### c. Accounts 2002, 2003, and 2004: Plant Accounts

AT&T argued that funds charged to accounts 2002, 2003, and 2004 should be assigned based on the specific detailed plant account records that indicate where money will finally reside when plant items are eventually placed in service rather than on the more general ratio of total plant in service.

USWC disagreed with AT&T, stating that the method used by MIEAC to allocate costs in Accounts 2002, 2003, and 2004 had been approved by the FCC for use by USWC and other Tier I companies.

While arguing that AT&T's proposal was not required by Parts 32 and 64 or the FCC's Order docket 86-111, MIEAC stated that it would not contest AT&T's proposal so as to avoid further dispute over immaterial points.

The Commission finds that AT&T has incorrectly applied the FCC's cost allocation requirements. Allocating these costs based on telephone plant already in service is a reasonable approach and appears fully authorized by the FCC.

In so finding, however, the Commission wishes to clarify that it does not approve comments by MIEAC to the effect that it is not required to account for its expenses in accordance with FCC Parts 32 and 64 and FCC's Order in docket 86-111. As the Commission stated in its January 10, 1991 ORDER GRANTING AUTHORITY, MIEAC must follow FCC rules regarding cost allocations and affiliate transactions.

d. Account 6232: Circuit Expense

MIEAC allocated circuit expense based on the total number of circuits anticipated to be in service at the end of 1992. AT&T alleged that MIEAC, in so doing, failed to follow the applicable FCC rules. According to AT&T those rules require allocation based on the "relative regulated and nonregulated usage of the investment at the highest forecast relative nonregulated usage over the life of the investment."

USWC disagreed with AT&T, arguing that use of a forecast applies only to an investment, not to expense. According to USWC, expenses associated with jointly used investment are to be allocated on actual use.

MIEAC objected to AT&T's proposal regarding circuit expenses, stating that AT&T had misstated the requirements of 86-111 and that those requirements did not apply to MIEAC anyway.

The Commission finds that MIEAC's method, allocating circuit expense based on the number of circuits anticipated to be in service at the end of 1992 is fair, reasonable, and consistent with the applicable FCC rules. The Commission will approve it. Again, however, the Commission's approval of this method does not condone MIEAC's comments that FCC Parts 32 and 64 and the FCC's order in docket 86-111 do not apply to it. As stated in the January 11, 1991 Order and reaffirmed previously in this Order, MIEAC must follow FCC accounting rules regarding cost allocations and affiliate transactions.



e. General Allocator

According to MIEAC's cost allocation manual, MEANS investment and expenses will be allocated to MIEAC and MIIC using primarily the general allocator. MEAFCO investment and expenses will be allocated to MIEAC and MIIC using primarily direct assignment and usage statistics. The manual also states that the general allocator is developed using the ratio of all expenses directly assigned or attributed to each affiliate.

AT&T disagreed with MIEAC's general allocator formula because it excluded directly assigned expenses of MIEAC and MIIC. If AT&T's description of how the general allocator is computed is correct, then MIEAC's description of its general allocator in its cost allocation manual would be inaccurate.

The Commission finds that the record on this point would benefit from further development. However, because of the time constraint in setting MIEAC's final rates for its first year and because MIEAC plans to file a rate case within the next few months, the Commission will accept MIEAC's calculation of its general allocator for setting final rates in this proceeding and will direct MIEAC to demonstrate how its general allocator is computed, including formula calculations, in its next rate proceeding. MIEAC will show what costs from each entity (MEANS, MIEAC, MEAFCO, and MIIC) are included and excluded to compute the general allocator.

f. Use of Part 64

MIEAC argued that its proposed cost allocation manual complies fully with Parts 32 and 64 and with FCC Docket 86-111. USWC alleged that the manual fails to fulfill MEANS' promise that Part 64 principles would be used with regard to the allocation of costs of MEANS to MIEAC, MEAFCO to MIEAC, between and among the services MIEAC may provide, with regard to any FCC or Minnesota Commission filings that may be necessary, and in preparation of financial statements to be distributed to shareholders.

The Department stated that it reviewed the cost allocations of MIEAC and its affiliates<sup>1</sup> and did not find anything inappropriate.

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<sup>1</sup> MIEAC's affiliated corporations are the following: Minnesota Equal Access Network Systems (MEANS), the holding company which owns all of the outstanding shares of stock of MIEAC and its affiliates; Minnesota Equal Access Facilities Corporation (MEAFCO), a facilities provider to MIEAC; and the Minnesota Independent Interexchange Corporation (MIIC) which is proposed to operate as an alternative IXC to either USWC or AT&T in any PILEC exchange for which no other IXC chooses to offer services.

The Commission will approve MIEAC's cost allocation manual, revised to reflect this Order's decisions on cost allocations. The manual appropriately describes its purpose - to apportion costs between affiliates - and need not incorporate the other representations already made with regard to cost allocations and reporting.

g. Independent Audit of Cost Allocations Manual  
and Monthly Report of MOUs by IXC

AT&T recommended that MIEAC be required to have an independent audit of its cost allocations manual and annually reviewed as the manual is revised. USWC suggested that MIEAC be required to file monthly reports showing minutes of use (MOU) by three characteristics: intrastate and interstate, intraLATA and interLATA, originating and terminating. MIEAC would be required to provide this information until sufficient data was available to demonstrate whether MIEAC and MIIC have performed appropriate separations and allocations of costs.

The Commission finds that an annual independent audit of the cost allocation manual and a monthly report of MOUs will not be necessary. To-date, the conditions placed on MIEAC such as rate caps and the close scrutiny by other parties that have been demonstrated thus far appear to be sufficient. If parties identify abuses by MIEAC in how costs are allocated in the future, parties can recommend additional safeguards at that time.

6. MIEAC's Transport Capacity

USWC alleged that MIEAC's network contains an amount of transport capacity well in excess of the amount necessary to provide CEA service to the PILECs. USWC argued that MIEAC should not be able to recover in its rates the cost of this excess capacity.

The Department agreed that MIEAC should only recover in its CEA rates the costs for circuits actually used to provide CEA plus a reasonable amount of excess capacity for growth. The Department recommended that the Commission require MIEAC to provide the number of circuits purchased and the number of circuits used for each link of its network and a complete explanation of the intended use for all excess capacity and the capacity that was purchased for growth. The Department recommended that MIEAC be required to provide this information now or in any future filing to increase rates.

MIEAC denied that it had excess capacity. MIEAC argued that USWC's analysis of MIEAC's transmission requirements was conceptually flawed and factually inaccurate. MIEAC asserted that its CEA network was consistent with industry standards for access networks. MIEAC stated that before any adjustment should be considered to MIEAC's transport costs, a complete comparison to USWC's access network should be conducted.

The Commission finds that MIEAC should provide adequate information to determine if the company is appropriately providing the transport capacity necessary for its CEA and related transport services. The Commission will require MIEAC to identify its transport capacity, including justification for including costs of unused capacity in its regulated rate base in the rate case MIEAC will soon file to establish rates for year two of its operations.

7. Local Operator Services and Directory Assistance Calls

MIEAC has decided to route all local operator service calls (0-) and local directory assistance (1-411) traffic through its tandem despite the fact that these call do not require CEA technology. USWC and AT&T requested Commission clarification on whether local operator services and directory assistance calls must pay MIEAC's transport, switching or equal access rates.

MIEAC responded that it has never proposed to charge for non-access calls, including 0- calls, E-911 calls and 411- (local directory assistance calls).

The Commission accepts MIEAC's statement and finds that its practice in this regard is consistent with the Commission's previous Orders that traffic that does not require MIEAC functionality, such as FGB traffic, should not be assessed the CEA charge. MIEAC charges are not to be applied to non-access calls when routed through the MIEAC switch at either the PILEC's or MIEAC's option.

**C. Disputed Issues**

1. Rate Cap and Switching and Transmission Costs Subject to Rate Cap

In its January 10, 1991 Order in this matter, the Commission adopted MIEAC's proposal to cap its CEA rate as assurance that MIEAC's CEA service would be offered at reasonable rates. The Commission noted that the proposal to cap the CEA rate added significant present value to MIEAC's overall proposal. The Commission characterized the proposal as follows:

MIEAC proposes 1) to charge IXCs no more than a "capped rate" of \$.0099 per minute of use during the first year of service; 2) to cap its transmission and switching costs at the \$.0099 level for five years; and 3) if its other costs in years two through five increased so that it became unable to met its revenue requirement at the \$.0099 rate, it would be allowed to seek a rate increase in a proceeding under Minn. Stat. § 237.075 (1988) not to exceed \$.0126 per minute of use.

There are two points at issue: the scope and level of cap in year two through five and what accounts should be included in calculating MIEAC's switching and transmission costs.

Regarding the cap level for years two through five, USWC and the Department proposed switching and transmission costs rate caps of \$0.0062 and \$0.0058 respectively. These proposals will not be accepted. The Commission's January 10, 1991 Order clearly established the cap on such costs in years two through five to be \$0.0099.

As to the accounts that should be added together to calculate switching and transmission costs, MIEAC agreed to include all the accounts proposed by USWC except the central office and network accounts. The Commission has reviewed both of these disputed accounts in light of the FCC's Uniform System of Accounts and finds 1) that central office accounts 6200-all should be included in the switching costs subject to the cap; and 2) that the network operations accounts (6530-all) need not be included.

The Commission will address the constituent accounts for switching and transmission costs again when it considers MIEAC's next rate case and will expect MIEAC to address at that time the issue of what accounts should be considered switching and transmission costs. Pending further Order of the Commission on this point, of course, MIEAC will include central office accounts when calculating switching and transmission costs.

## 2. USWC's Rearrangement Costs

USWC has charged MIEAC \$250,000 for the installation of DS-1 connections on routes required by MIEAC in the provision of CEA to the PILECs. MIEAC has refused to pay. MIEAC argued, among other things, that the costs in question are simply USWC's rearrangement costs and the Commission has already established that MIEAC is not required to pay such costs. The Department argued that if the \$250,000 is billed under FCC Tariff No.1, Sec. 7, the Commission does not have jurisdiction to decide the matter.

At this time, the record does not adequately address the Commission's jurisdiction over this dispute. In addition, the Commission views the question as adequately distinct from the compliance matters currently before the Commission to warrant consideration in a separate docket. Therefore, if USWC wishes to pursue this matter, it will be required to file a complaint which fully addresses the jurisdiction of the Commission over such a dispute.

## 3. 800 Calls

Prior to MIEAC's CEA, 800 traffic was routed from the ILECs to a USWC access tandem where USWC determined to which IXC the call should be routed. Now MIEAC also has the capability to perform that function and, in fact, has established a monopoly over the 800 routing service as to 800 calls originating in the PILEC exchanges, forcing "800" traffic through its tandem and requiring IXCs to pay the per minute of use CEA charge on that traffic.

USWC and AT&T argued that 800 routing did not require CEA technology so there was no reason to allow MIEAC to force 800 traffic through its tandem. According to these parties, IXCs should be able to choose the provider of their 800 routing service. Further, USWC charges only a per call fee for the 800 look up function rather than the per MOU charge assessed by MIEAC.

MIEAC stated that its monopoly over the routing of 800 traffic originating in the PILEC exchanges is vital to MIEAC's survival. The Company further argued that its proposed rate caps were based on traffic levels that included monopoly-level 800 traffic so it would be unfair to prevent it from serving and receiving income from such traffic without changing the caps.

In reviewing its January 10, 1991 Order and the record this Order was based on, the Commission finds that MIEAC's involvement with 800 traffic was not clearly addressed. MIEAC witness Musick stated that MIEAC would have the capability to provide 800 routing service but did not propose to establish itself as the monopoly provider of 800 routing service. While the Commission wishes to maintain MIEAC's ability to provide CEA to the PILECs and is sensitive to MIEAC's claim that its monopoly provision of 800 routing service is critical to its survival, the Commission's January 10, 1991 Order was clear in limiting MIEAC's authority. The Commission stated:

The services that MIEAC will be authorized to provide under this Order are limited to the following: originating equal access service and recording services, and optional terminating access service. MIEAC is prohibited from providing any other services under this Certificate of Authority, including any local services in LEC exchanges in the Twin Cities metropolitan area. ORDER GRANTING CERTIFICATE OF AUTHORITY (January 10, 1991) at page 20.

The Commission is troubled by MIEAC's failure to request reconsideration of the limits thus placed on its authority if, indeed, monopoly provision of 800 routing service was critical to its survival and had been a basis of its proposed rate cap.

In these circumstances, the Commission will review this matter fully in MIEAC's year two rate case and decide what role MIEAC should have with respect to 800 routing service. MIEAC will have the burden of establishing why it should be granted authority, monopoly or otherwise, to provide 800 routing service. In the meantime, the Commission will allow MIEAC to keep the revenues earned from providing 800 routing service resulting from the final rates approved by the Commission in this Order but will require MIEAC to allow IXCs to have the option of selecting the provider of their 800 routing services unless and until the Commission reaches a different determination in the year two rate proceeding.

## **II. ESTABLISHMENT OF FINAL RATES**

### **A. Revenue Requirement**

MIEAC filed its proposed rates on November 12, 1991 showing an intrastate revenue requirement of approximately \$4.7 million. MIEAC revised its revenue requirement in its filing on January 13, 1992. The revised filing shows a revenue requirement of \$4.5 million. The authorized revenue was subject to the rate cap for CEA which was significantly less than MIEAC's calculation of its revenue requirement. The authorized revenue by MIEAC is approximately \$1 million less than its calculated revenue requirement. Other parties did not dispute MIEAC's calculation of its revenue requirement.

The Commission finds that MIEAC's authorized revenue complies with the Commission's earlier decisions and will approve it.

### **B. Return on Equity**

MIEAC stated that a 14 percent return on equity (ROE) was appropriate because of the risk associated with the provision of CEA service for which alternatives are available, terminating access service will be provided on a competitive basis, MIEAC's capital structure contains a low equity ratio so stockholders are at greater risk, and a 14 percent ROE is below the level accepted for LECs.

In response to MIEAC's filing, the Department argued that a 14 percent ROE was unreasonably high. The Department explained that the ROE selected does impact the rates for CEA and transport service even though there is a rate cap. Citing the Commission's Order setting interim rates in this matter, the Department recommended a return on equity of 12.00 percent.

In reply comments, MIEAC stated that it would not dispute the Department's recommendation of a 12 percent ROE.

In its Order setting interim rates, the Commission approved a 12 percent ROE and indicated that such a rate is more consistent with regulatory norms than the company's recommended 14 percent ROE. The Order went on to state that MIEAC would have to show in its final rate filings that a 14 percent ROE was justified.

The Commission finds that MIEAC has not shown that a 14 percent ROE is justified and finds instead that a 12 percent ROE in setting first year rates is appropriate based on the available information in the record. Rate of return issues will receive additional consideration in MIEAC's upcoming rate case filing.

### **C. Final Rates**

MIEAC proposed the following rates:

Transport	\$0.0046 per MOU
Switching (FGA and B)	\$0.0081 per MOU
Switching (FGD)	\$0.0085 per MOU

The rates recommended by MIEAC were developed by first calculating the amount of transport revenues MIEAC anticipated and then reducing the rate capped authorized revenues by this amount. The Department agreed with this approach. Although AT&T and USWC did not disagree with this approach, in their filed comments AT&T recommended a higher transport rate whereas USWC recommended a lower CEA rate. At the December 22, 1992 hearing on this matter, however, AT&T and USWC modified their positions and indicated they had no objection to MIEAC's proposed rates.

The Commission finds that those rates are fair and reasonable and will approve them. These rates reflect a 12 percent ROE found appropriate above and do not exceed the cap adopted by the Commission as a required condition of MIEAC receiving a certificate of authority. The effective date for final rates will be determined by the Commission in its review of MIEAC's refund plan, as discussed in the following section.

#### **D. Calculation of Refunds/Surcharges**

The parties are in general agreement regarding the shape of the refund/surcharge plan that MIEAC will be required to submit and the Commission finds those agreed parameters reasonable.

Due to the limited number of IXCs that subscribe to MIEAC's CEA and transport services, refunds and surcharges should be individually calculated and then netted. Because the refund per MOU is greater than the surcharge per MOU, netting the two will result in refunds to each IXC. The refund period should reflect the period that interim rates are collected. As required in the January 30, 1992 Order setting the interim rates, the adjustments in rates are subject to interest. MIEAC will be required to file its refund plan with the Commission for approval, including a proposed effective date for implementing final rates and any proposal to spread the credit amounts over several months. MIEAC will serve a copy on each affected IXC. Any comments from parties should be filed within ten days of MIEAC's refund plan filing.

#### **ORDER**

1. Within 60 days of the date of this Order, Minnesota Independent Equal Access Corporation (MIEAC) shall add the following language to Sec. 7 of the MIEAC-PILEC traffic agreements and file a copy of such amended agreements with the Commission:

If the MPUC orders compliance with a bona fide request for end office equal access, the PILEC shall terminate this contract for intrastate traffic as of the date it begins end office equal access.

2. Within 60 days of the date of this Order, MIEAC shall file revised tariff pages which add the following language to Sec. 1 of the MIEAC tariff:

MIEAC and its affiliates are prohibited by order of the Minnesota Public Utilities Commission from offering or providing any local services, directly or indirectly, to customers in exchanges in the Twin Cities metropolitan area.

3. MIEAC shall include in the list of accounts used to calculate switching and transmission costs in years two through five central office accounts 6200-all. The rate cap for switching and transmission costs in years two through five is capped at \$0.0099 per MOU.
4. In its next rate case, MIEAC shall address the issue of what accounts are properly used to calculate switching and transmission costs in years two through five.
5. The method agreed to by the Department and MIEAC for unbundling the centralized equal access (CEA) and transport rates is approved. The CEA and transport rates shall be unbundled by subtracting the revenue to be received from transport services from the total authorized revenue after revenues from miscellaneous services have been removed. The remaining revenue shall be recovered from the CEA rate.
6. If U S West Communications, Inc. (USWC) believes that the Minnesota Commission has jurisdiction to determine whether MIEAC should pay \$250,000 to USWC for circuit connections, USWC should file a complaint against MIEAC for review in a separate proceeding.
7. An investigation into the threat of bypass of local transport facilities will be initiated by separate Order of the Commission. The Commission will open a new docket (P-999/CI-93-12) for this purpose and provide notice to all telephone companies in Minnesota.
8. MIEAC's allocation methodology for accounts 6723, 6725, 2002, 2003, 2004 and 6232, as reflected in its June 18, 1992 comments, is approved.
9. The general allocator used by MIEAC for purposes of setting final rates in this proceeding is accepted. MIEAC shall demonstrate how its general allocator is computed in its next general rate proceeding.
10. Within 60 days of this Order, MIEAC shall file an updated cost allocation manual after incorporating the Commission's decisions herein on cost allocations.
11. USWC's recommendation regarding reporting and use of Part 64 language to include in MIEAC's cost allocation manual is rejected.



12. AT&T's recommendation to have MIEAC's cost allocation manual subject to an independent audit is rejected.
13. USWC's recommendation to have MIEAC file monthly reports on its MOU data is rejected.
14. In its next rate case filing, MIEAC shall identify its transport capacity, including justification for including all costs of excess capacity in its regulated rate base.
15. MIEAC shall not apply its CEA charge to 0-, E-911 or 411-calls routed through the MIEAC switch at the PILEC's or MIEAC's option.
16. MIEAC will be allowed to keep the revenues that have been generated under the CEA rates approved by the Commission for the routing of 800 traffic prior to the issue date of the Order resulting from this meeting. Following this Order, MIEAC shall provide IXCs the option of how their 800 traffic will be routed. In MIEAC's year two rate proceeding, MIEAC shall address whether it should have monopoly control over the routing of 800 traffic for PILEC exchanges and shall have the burden of proof in that regard.
17. MIEAC's proposed rates for traffic recording are hereby approved.
18. MIEAC's proposal to mirror NECA's FCC tariffed rates for non-recurring and miscellaneous services related to the provision of CEA, transport, and recording is approved.
19. A 12 percent ROE for setting MIEAC's year one rates is approved.
20. MIEAC's authorized revenue is \$3,452,327 to be recovered from rates for miscellaneous services and the following rates for transport and switching:

Transport:	\$0.0046 per MOU
Switching (FGA and B)	\$0.0081 per MOU
Switching (FGD)	\$0.0085 per MOU
21. Within 30 days of this Order, MIEAC shall file with the Commission for its review and approval, and serve upon all parties, a proposed effective date for implementing the final rates and a proposed plan for refunding and surcharging to IXCs the difference between the interim and final rates collected during the period the interim rates were in effect, including interest. MIEAC shall also serve a copy of its proposed plan to all affected IXCs.
22. Within 60 days of this Order, MIEAC shall file revised tariff pages reflecting the rates approved for transport and switching in Ordering Paragraph 20.

23. Any comments from parties shall be filed within ten days of the date MIEAC files its refund plan and proposed effective date for the final rates.
24. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)